

The Illinois Department of Revenue does not administer the provisions of the Illinois Municipal Code that allow municipalities to impose taxes on persons engaged in the business of renting, leasing, or letting rooms in a hotel in those municipalities. 65 ILCS 5/8-3-14. Therefore the Department cannot make a ruling regarding application of that tax. (This is a GIL.)

July 3, 2007

Dear Xxxxx:

This letter is in response to your letter dated October 30, 2006, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

This office represents the CITY, Illinois, and I would request your opinion on the following:

The CITY, Illinois, imposes a tax pursuant to Section 8-3-14 of the Illinois Municipal Code which reads as follows:

Sec. 8-3-14. The corporate authorities of any municipality may impose a tax upon all persons engaged in such municipality in the business of renting, leasing or letting rooms in a hotel, as defined in 'The Hotel Operators' Occupation Tax Act' [35 ILCS 145/1 et seq.], at a rate not to exceed 5% of the gross rental receipts from such renting, leasing or letting, excluding, however, from gross rental receipts, the proceeds of such renting, leasing or letting to permanent residents of that hotel and proceeds from the tax imposed under subsection (c) of Section 13 of the Metropolitan Pier and Exposition Authority Act [70 ILCS 210/13], and may provide for the administration and enforcement of the tax, and for the collection thereof from the persons subject to the tax, as the corporate authorities determine to be necessary or practicable for the effective administration of the tax.

Persons subject to any tax imposed pursuant to authority granted by this Section may reimburse themselves for their tax liability for such tax by separately stating such tax as an additional charge, which charge may be stated in combination, in a single amount, with State tax imposed under 'The Hotel Operators' Occupation Tax Act' [35 ILCS 145/1 et seq.].

Nothing in this Section shall be construed to authorize a municipality to impose a tax upon the privilege of engaging in any business which under the constitution of the United States may not be made the subject of taxation by this State.

The amounts collected by any municipality pursuant to this Section shall be expended by the municipality solely to promote tourism and conventions within that municipality or *otherwise* to attract nonresident overnight visitors to the municipality.

No funds received pursuant to this Section shall be used to advertise for or otherwise promote new competition in the hotel business.

The City is seeking interpretation of the 4th paragraph of Section 8-3-14 which states as follows:

The amounts collected by any municipality pursuant to this Section shall be expended by the municipality **solely to promote tourism and conventions within that municipality or *otherwise* to attract nonresident overnight visitors to the municipality.** Emphasis Added.

In particular, the City seeks an interpretation of whether the above paragraph of Section 8-3-14 requires that all expenditures of amounts collected pursuant to said section be made in a manner to attract non-resident, overnight visitors to the CITY, or whether funds collected can be spent for tourism and convention activities that will not attract non-resident, overnight visitors to the City.

If you have any questions, please contact me. Thank you for your consideration.

DEPARTMENT'S RESPONSE

The Illinois Department of Revenue does not administer the provisions of the Illinois Municipal Code that allow municipalities to impose taxes on persons engaged in the business of renting, leasing, or letting rooms in a hotel in those municipalities. 65 ILCS 5/8-3-14. As a result, the Department has no authority or jurisdiction to provide you with a ruling concerning the application of that tax.

Very truly yours,

Martha P. Mote
Associate Counsel